



CABINET – 29 MARCH 2019

**EAST OF LUTTERWORTH STRATEGIC DEVELOPMENT AREA (SDA) –
HOMES ENGLAND FUNDING AND EARLY CONTRACTOR
INVOLVEMENT**

**JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES,
AND DIRECTOR OF ENVIRONMENT AND TRANSPORT**

PART A

Purpose of the Report

1. The purpose of this report is to seek the Cabinet's approval to accept a grant allocation of £14m from Homes England that will provide funding for the East of Lutterworth SDA scheme and other schemes in the County, and authority to enter into a contract for Early Contractor Involvement for the design and construction of the Lutterworth East spine road.

Recommendation

2. It is recommended that:
 - (a) The grant allocation of £14m from Homes England from their Local Authority Accelerated Construction Fund be accepted and the necessary funding agreements are completed;
 - (b) The Director of Environment and Transport, following consultation with the Director of Corporate Resources, the Director of Law and Governance, and the Cabinet Lead Member for Resources be authorised to enter into a contract and to proceed with Stage 1 of that contract to allow Early Contractor Involvement (ECI) in the design and undertaking of preliminary works in respect of the future proposed construction of the East of Lutterworth spine road and related infrastructure.

Reasons for Recommendation

3. The conditions associated with the Homes England Local Authority Accelerated Construction (LAAC) grant are considered acceptable. Agreement to the conditions will secure an additional £14m to support four key development projects in Leicestershire including £8m for the East of Lutterworth SDA scheme, which will further support delivery of the Council's Strategic Plan objectives.

4. Entering into the proposed contract to allow Early Contractor Involvement for the East of Lutterworth transport package will support the development of detailed design, and identify and manage risk to give cost certainty for the scheme. It is estimated that the ECI and related costs will total up to £1.5m.

Timetable for Decisions (including Scrutiny)

5. Acceptance of the Homes England LAAC Fund grant allocation must be confirmed by 31 March 2019. If the conditions attached to this grant are accepted by the Cabinet, this will be immediately confirmed to Homes England and revised project timetables prepared for the identified sites (Snibston Discovery Park, Sysonby Farm in Melton, Misterton County Farm estate (CF) in Lutterworth, and land at Farley Way in Quorn).
6. In order to meet external funding deadlines, detailed design of the East of Lutterworth spine road needs to be completed by the end of 2019. Approval to enter into a contract and to proceed with Stage 1 of that contract to allow ECI will ensure such design work can be completed within this timescale.
7. A further report will be submitted to the Cabinet on the cost and financing of the construction of the spine road (Stage 2) and on the approach to be taken in the wider SDA development, once the work on the potential delivery models has been completed. This will also be available for consideration by the Scrutiny Commission.

Policy Framework and Previous Decisions

8. The Council's Strategic Plan (agreed by County Council on 6 December 2017), supported by the Council's Enabling Growth Plan, outlines the Council's long-term vision for the people and place of Leicestershire. It sets the Council's five key outcomes for 2018 to 2022 which include facilitating the delivery of affordable and quality homes and building a strong economy, generating economic growth. It recognises that infrastructure is a key enabler, providing access to opportunity and opening up sites for growth.
9. The Council's Corporate Asset Investment Fund Strategy, which forms part of the Council's MTFs (agreed in February 2019), sets out how the Council will use and grow its property assets to support delivery of its housing and economic growth Strategic Plan objectives.
10. In May 2016, the Cabinet resolved to support the promotion of the East of Lutterworth SDA and to secure the SDA within Harborough District Council's Local Plan. The Cabinet subsequently considered the detailed financial and resource implications for the project and progress regarding the Housing Infrastructure (HIF) bid and other funding bids for the South West Leicestershire Growth Area (SWLGA) at its meetings in March 2018 and February 2019. The Cabinet agreed to continue to promote the SDA in the Harborough Local Plan and bring forward the site for development.

Resource Implications

11. Acceptance of the LAAC grant will provide funding for expenditure that the County Council would in all likelihood incur anyway as the site development works are undertaken. Part B of this report provides more detail on the risks for and restrictions on the County Council that will arise from accepting the grant funding. Overall, these are considered to be legally and financially acceptable.
12. The £1.5m required to fund the ECI and related works for the East of Lutterworth spine road will be funded from the future development reserve. A further report on the approach to the wider SDA development will be submitted once work on the potential delivery models is completed.
13. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

14. A copy of this report has been sent to Mr. B. L. Pain CC and Mrs. R. Page CC.

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PART B

Background

15. The East of Lutterworth SDA extends to 516 acres of land. The proposed scheme for the site involves the development of 2750 dwellings, 56 acres of employment land, 2 primary schools, a local centre, extensive open space and green infrastructure together with major highways work including the construction of a new spine road (providing some traffic relief to Lutterworth), a new motorway bridge, and substantial off-site junction improvements. The appended concept masterplan shows an indicative layout of the proposed development.
16. The SDA has been promoted on the basis set out above since January 2015. It was selected as a preferred strategic allocation in the Submission Draft of Harborough District Council's Local Plan in March 2017 and has thereafter been promoted by the County Council for inclusion within the formal draft as part of the Harborough Local Plan Process.
17. In March 2018, the Local Plan including the SDA was approved by the District Council and was thereafter submitted to the Secretary of State for independent evaluation. The Examination Hearing stage of the process was completed in October 2018 and the Inspector's report is expected to be published in April 2019 following consultation on the main modifications (i.e. changes made to the Local Plan policies agreed between the Inspector and the District Council as a result of the Examination in Public). It is expected that Harborough District Council will formally adopt the Local Plan in late spring 2019.
18. The planning application for the SDA was submitted to Harborough District Council on 26 February 2019. The District Council has indicated that consideration of the application will happen by late summer 2019.

Early Contractor Involvement – Lutterworth East Spine Road

19. The County Council is a member of the Midlands Highways Alliance and, as part of the Council's procurement strategy, uses the Medium Schemes Framework (MSF3) to procure the appropriate contracts to deliver many of the Environment and Transport Department's capital programme schemes. The MSF3 uses the New Engineering Contract 4 (NEC4) which was issued in 2015 and this provides the opportunity to enter into a contract with the highways construction industry at an earlier stage.
20. It is proposed that the County Council enters into a contract and proceeds with Stage 1 of that contract to allow ECI for the construction of the East of Lutterworth spine road and related infrastructure. This is to ensure that the construction timetable meets with the requirements of the Housing Infrastructure Fund Bid which the Council has submitted for this scheme.
21. More detailed information on the process of ECI in the context of the delivery of schemes is included in the Environment and Transport Capital Programme report which appears elsewhere on the agenda for this meeting.

22. In essence, however, use of this process means that the Council will enter into a single contract but this will proceed in two stages. For this project, authority is currently only being sought to enable the Council to proceed with the first stage which is the ECI phase (Stage 1). The initial cost to the Council to undertake the design/preliminary works involved in this stage of the contract is estimated to be up to £1.5m. Stage 1 will then be followed by the Construction phase (Stage 2), if appropriate conditions are met. The target price for a scheme is agreed by both parties before moving to Stage 2.
23. At present it is assumed that the overall value of the contract to deliver highways infrastructure for Lutterworth East will be in the region of £80m. However, the final scope and value of Stage 2 of the contract will be informed by the outcome of funding applications over the course of 2019 and also forthcoming decisions over delivery mechanisms for the East of Lutterworth SDA project as a whole. Therefore, a further detailed report will be brought to the Cabinet relating to the construction of the spine road linked to the SDA project later this year to enable the Cabinet to consider its inclusion in the roll-forward of the capital programme.
24. By entering into the contract the County Council needs to demonstrate to any ECI contracting partner a commitment to the project as a whole and in this case it is considered that submission of a planning application that included a commitment to deliver the highways package of works constitutes sufficient intention for the County Council to proceed with such an agreement in this case.
25. The opportunity to work with the appointed contractor through Stage 1 means, amongst wider benefits of collaboration and partnership working, that at the point of moving to construction there is greater cost certainty, minimised risk and the benefits of an existing working relationship.

Homes England Local Authority Accelerated Construction Fund (LAAC)

26. The County Council submitted expressions of interest in respect of a number of potential County Council owned sites to the LAAC which was launched by Homes England (HE) in January 2017 to facilitate development in locations where there was sufficient demand for housing. A shortlist of 6 sites was identified as meeting the basic criteria of being able to deliver a minimum of 50 dwellings commencing before 2021.
27. Implicit within HE's criteria is the requirement that the dwellings should be delivered using modern methods of construction (MMC) and low and medium volume builders where practical and at an accelerated rate above that which normal market forces would support.
28. On the basis of independent viability and technical assessments undertaken by HE, offers of funding were made in respect of four of the six sites as detailed in the table below and in accordance with the profile shown. The level of funding being capped at the level where the benefit cost ratio fell below 1.5.

Site	No. of Dwellings	Estimated Costs (£'000)	Grant Offer (£'000)	Draw down profile		
				2018/19 (£'000)	2019/20 (£'000)	2020/21 (£'000)
Snibston Discovery Park	144	4,192	733		733	
Sysonby Farm, Melton Mowbray	290	4,423	4,423	100	1,500	2,823
Misterton CF (Lutterworth East – Part)	649	8,088	8,088	200	500	7,388
Farley Way Quorn	48	931	931		931	

21. The offers are conditional upon the development being brought forward against an agreed timetable and meeting the criteria detailed in the following table.

Site	No of Dwellings	Affordable Housing	Proposed MMC	Pace of Construction
Snibston Discovery Park	144	5%	Sub-Assembly	4.4 /month
Sysonby Farm, Melton Mowbray	290	15%	Panellised	6.0 /month
Misterton CF (Lutterworth East - Part)	649	40%	Hybrid	6.0 /month
Farley Way Quorn	48	40%	Volumetric	4.5/month

22. Further, the HE standard funding agreement contains a number of additional restrictions which, if the grant is accepted will create a potential risk to the County Council, or have the ability of constraining its ability to freely dispose of the land at a time and in a method of its choosing. The key restrictions that will be applied are as follows:

- Failure by the County Council to achieve the delivery of the Project by the timescales (defined as the Project Completion Date), as set out in the funding agreement resulting in HE terminating the agreement and either suspending or withdrawing the funding and in the worst case scenario in the event of a failure to achieve these timescales by a developer to whom the County Council has sold the site the County Council may be required to repay the funding to HE. A default in respect of one of the Funding Agreements could be deemed to be a default in respect of all of the Funding Agreements that the County Council has with HE.
- Prohibition against disposing of the land without consent from HE whilst development works (to be completed by 31 March 2021) are being carried out except by way of permitted disposals, the definition of which includes a building lease or any other sale with the consent of HE. After completion of the development works consent will still be required from HE for any disposal until the Project Completion.

- Provision of warranties as to the delivery of the Project (including the number of dwellings per site as set out in the table above) in accordance with the milestones and outputs agreed.
- The requirement to make arrangements for management until the Project Completion Date of both the Project and the health and safety risk in accordance with applicable legislation in the event of a disposal.
- Provision of monitoring and progress reports as well as inspection and audit facilities and any information and know-how relating to the Project as required by HE until the Project Completion Date as well as provide or procure any licence in respect of Intellectual Property Rights.
- The recovery by HE at the Project Completion Date of a proportionate payment in the event of a disposal of part or whole of the site (with HE's consent) if the disposal proceeds exceed the projected land value. There is no deduction of expenditure incurred by the County Council up to the date of disposal. In all cases the protected land value figures represent an uplift on the currently anticipated capital receipts for the individual sites and thus the clawback provisions may not represent a significant risk to the County Council. The values and clawback percentage are set out in the table below.
- The recovery by HE of a proportionate payment at Project Completion Date in the event that the County Council (itself or through a controlled company) undertakes the development of the dwellings, such payment to be calculated as percentage (as set out in the table below) of the net proceeds of sale of the dwellings minus the projected land costs taking into account the development costs.
- The requirement to provide an indemnity by the County Council to HE in the event of any claim or losses arising from the performance, non-performance or delay in performance of the obligations in the funding agreement.

Site	Protected Land Value (£'000)	Clawback
Snibston Discovery Park	4,947	17%
Sysonby Farm, Melton Mowbray	13,167	100%
Misterton CF (Part Lutterworth East)(18ha)	28,514	100%
Farley Way, Quorn	3,747	100%

23. An assessment of the legal and financial risks associated with the acceptance of the grant has been undertaken and it is considered that these are small and in any event outweighed by the benefit that such additional funding will provide in the delivery of the schemes identified. The Cabinet is therefore asked to approve the acceptance of this grant despite the restrictions imposed.

Equality and Human Rights Implications

24. There are no Equality and Human Rights Implications directly arising from this report.

Risk Assessment

25. This is a large and complex project that requires upfront investment in order to generate future financial returns. Inevitably this brings a degree of risk. The Council is mindful of this and appropriate governance arrangements have been put in place to continually monitor the project. An East of Lutterworth SDA Steering Group has been established which is chaired by the Chief Executive and updates are also regularly provided to the (member) Corporate Asset Investment Fund Advisory Board.

Environmental Impact

26. A full Environmental Impact Assessment was submitted as part of the Planning Application for the Lutterworth East SDA.

Appendix

Lutterworth East SDA Masterplan

Background Papers

Corporate Asset Investment Fund Strategy

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5600>

County Council Strategic Plan

<https://www.leicestershire.gov.uk/about-the-council/council-plans/the-strategic-plan>